

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/672,471	BENSON, DONALD M.	
	<b>Examiner</b>	Art Unit	
	Ali Abdelwahed	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to Amendment.

2.  The allowed claim(s) is/are 1.

3.  The drawings filed on 26 September 2003 are accepted by the Examiner.

4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
    1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

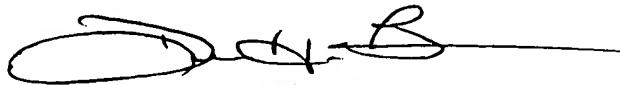
(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
    Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

- 1.  Notice of References Cited (PTO-892)
- 2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
    Paper No./Mail Date \_\_\_\_\_
- 4.  Examiner's Comment Regarding Requirement for Deposit  
    of Biological Material
- 5.  Notice of Informal Patent Application (PTO-152)
- 6.  Interview Summary (PTO-413),  
    Paper No./Mail Date 20050112.
- 7.  Examiner's Amendment/Comment
- 8.  Examiner's Statement of Reasons for Allowance
- 9.  Other \_\_\_\_\_.



DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

Part of Paper No./Mail Date 20050112

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Donald M. Benson on January 11, 2005.

The application has been amended as follows:

Cancel claim 1.

Insert new claim 1 as follows: --A flyable ball comprising a spherically shaped body having a center axis and a transverse center axis; a radially outwardly extending annular rim projecting outwardly from and being integral with said body and located below and spaced from said transverse axis; said body and said rim being formed unitarily in a mold from a chemically activated foam which fills the mold to provide a smooth outer surface on said body and said rim, with the interior of said body and said rim being completely and entirely filled with foam; said body having upper and lower portions; the upper portion of said spherically shaped body above said annular rim being larger in area than the lower portion of said body below said annular rim; said annular rim including a pair of first and second intersecting surfaces which are configured and shaped to form an air-foil which causes lift and guides the ball in flight

after the ball is spun in the air by a person gripping said annular rim; said second surface which is furthest away from said transverse center axis being straight and parallel to said transverse axis and having an annular open groove provided therein throughout the circumferential extent of said annular rim; said annular open groove having a flat annular surface and a pair of side surfaces; said first surface which is directly opposite to said transverse axis curving outwardly and downwardly from said upper portion and intersecting said second surface; said annular open groove being located and spaced inwardly from the edge of said annular rim where said first and second surfaces intersect; said annular rim providing a hand grip for a person to grip said body and to rotate said body and said rim in the air resulting in the air rushing across the upper and lower portions of said body and said rim causing the air beneath said body to exert an upwardly force on said lower portion thereby creating an aerodynamic lift, with the air moving across the upper portion of said body resulting in a substantial drop in air pressure above said body.--.

The following changes to the drawings have been approved by the examiner and agreed upon by applicant: The replacement drawings submitted and filed on October 29, 2004 have not been accepted by the examiner and will not be entered. The original drawings filed on September 26, 2003 will remain as the appropriate drawings for the present invention. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance: The specific limitation of "...the upper portion of said spherically shaped body above said annular rim being larger in area than the lower portion of said body below said annular rim..." is not anticipated or made obvious over the prior art of record in the examiner's opinion. For example, U.S. Patent No. 4,262,911 to Opresik et al. teaches a flyable ball comprising all of the limitations of claim 1. However, the prior art of record fails to teach the upper portion of said spherically shaped body above said annular rim being larger in area than the lower portion of said body below said annular rim. Furthermore, Opresik et al. teaches that in all designs of the invention, the upper section is smaller than the lower section in order to give a good flying balance (see column 2, lines 17-20).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (571) 272-4417. The examiner can normally be reached Monday through Friday from 10:00 A.M. to 6:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on (571) 272-4483.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the examiner or the examiner's supervisor.

AA  
01/12/2005



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